

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

PHILADELPHIA, PENNSYLVANIA

JULY 5, 2022

BEFORE: THE HONORABLE GENE E.K. PRATTER, J.

## BAIL HEARING

## APPEARANCES:

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(Transcript produced by machine shorthand via C.A.T.)

1 (Deputy Clerk opened court)

2 THE COURT: Hello, everybody. Please take your  
3 seat.

4 MR. DESIMONE: Good morning, Your Honor.

5 THE COURT: Good morning. Good morning, everybody.

6 So this is yet another bail hearing in connection with the  
7 defendant's application for pretrial release in the case of  
8 United States of America versus Mehdi Nikparvar-Fard, Criminal  
9 Action 18-101.

10 Taking attendance, we'll start with Ms. Costello.

11 MS. COSTELLO: Good morning, Your Honor. Mary  
12 Costello for the United States.

13 MR. PARISI: Good morning, Your Honor. Christopher  
14 Parisi on behalf of the Government as well.

15 MR. DESIMONE: Good morning, Your Honor. Frank  
16 DeSimone for Dr. Nikparvar-Fard.

17 MS. QUERNS: And Ann Querns also for Dr.  
18 Nikparvar-Fard.

19 THE PRETRIAL SERVICES OFFICER: Good morning, Your  
20 Honor. Jimmy Gedeus, Pretrial Services.

21 THE COURT: Thank you very much.

22 All right, Ms. Querns, Mr. DeSimone.

23 MR. DESIMONE: Your Honor, if I might, I'd ask Your  
24 Honor how you want us to proceed. We have witnesses and we  
25 have other things we want to put on the record.

1                   THE COURT: Whatever works for you, Mr. DeSimone.

2 I'll be able to follow along.

3                   MR. DESIMONE: All right. I think what I'd like to  
4 do in the beginning, Your Honor, is lay the foundation for  
5 this. As Your Honor knows, on May the 4th, we were given a  
6 bunch of new discovery. I don't want to go into the details  
7 of it, but -- and because of that, Your Honor, the case was --  
8 we had to postpone the trial in this matter until January.

9 You know, it just reminded me of what Churchill said. It  
10 wasn't the end of the beginning. This is just the end of the  
11 beginning. Because what has happened since then, Your Honor,  
12 is we have been going through this with Ms. Querns and she's  
13 going to address some of this. To take this back, Judge, Ms.  
14 Querns told us this morning, we looked at a letter we received  
15 from the Government in February of 2019 saying to us that they  
16 were going to give us the discovery -- the discovery had begun  
17 and they were going to give us discovery that was going to be  
18 completed by March 2019. That's three -- three and a half  
19 years, whatever that is, time. And as you know, Your Honor,  
20 that hasn't happened. What did happen in the interim, Your  
21 Honor, and again Ms. Querns will testify or get up and tell  
22 you, we received some transmissions from informants and some  
23 tapes and, again, I was reading them and I called Ms. Querns  
24 and I said to her, This doesn't seem right. There's no flow  
25 here. So Ms. Querns corresponded with the Government in

1 December of 2019, way before the pandemic, I mean, four months  
2 before we had a pandemic problem, and requested, said  
3 specifically, and she will show you the e-mail specifically,  
4 asked for any informants, any additional informants, do you  
5 have anything else here, what else -- do you have any other  
6 recordings, anything? The Government responded no. No. No.

7 Well, flash forward and then flash back, we have now  
8 found out that that is not correct, but we did not find that  
9 out until just this past May when we were three weeks from  
10 trial. This continued, Your Honor, and it was almost like  
11 being a dentist, you know, and this still continues, by the  
12 way. Nothing -- I'm not casting aspersions on anybody, I'm  
13 just giving you the facts. We were given some discovery.  
14 70,000 pages.

15 THE COURT: How does this relate to being a dentist?

16 MR. DESIMONE: Pardon, you know, when you have to  
17 pull teeth to get the discovery, you see. I'm sorry.

18 THE COURT: All right, well, your metaphor --

19 MR. DESIMONE: That's my metaphor.

20 THE COURT: All right.

21 MR. DESIMONE: Now you've got the metaphor and I  
22 feel like the dentist.

23 THE COURT: All right, again.

24 MR. DESIMONE: Okay, you got it. I won't beat the  
25 dead horse, Judge, for another metaphor.

1                   So, anyway, what has happened here, one of the  
2 recordings from this gentleman Higgins, he -- let me give you  
3 some perspective here. Dr. Nikparvar-Fard got arrested on the  
4 other case and he was in custody. Nevertheless, Mr. Higgins  
5 went into his practice and for four months made recordings  
6 which we weren't given. Now, on those recordings and you're  
7 going to see here what really was the problem when I tell you  
8 this is the end of the beginning -- Churchillian -- we tell  
9 the Government there is exculpatory evidence, and, Judge, as I  
10 tell you, if I've ever seen exculpatory evidence, there's a  
11 lot here. The Government says, Oh, no, some of these things  
12 are not exculpatory. And I asked the Government then, did you  
13 pay the informant, does he have a deal, Mr. Higgins? What's  
14 the situation? Well, I haven't had an answer to that and I  
15 think the reason the Government is saying to me -- I'm not  
16 going to put words in their mouth -- Oh, we may not call this  
17 person. It's immaterial whether they call him or not. They  
18 sent somebody in to get incriminating evidence that they  
19 either paid or made a deal with to get incriminating  
20 information on Dr. Nikparvar-Fard and, in fact, got  
21 exculpatory information of Dr. -- and there's legions of  
22 instances. I don't want to give my case away, but it will  
23 become apparent.

24                   So if the Government's position today is, well,  
25 we're not going to turn that stuff over, we still don't have

1 it yet because we're not calling witnesses or it's not  
2 exculpatory, we're going to have another hearing in front of  
3 Your Honor on that.

4 There's another witness, Dr. DiGiralomo, a  
5 government witness. It turns out now that he's in 7 or 8  
6 other matters. We don't -- and the Government's telling us,  
7 well, we're not sure whether we're going to call  
8 Dr. DiGiralomo. He was initially on the list of the people  
9 they were going to call. We're not sure we're going to call  
10 him. So what do we need to do then? Do we have to wait until  
11 December to find out, to see if we're entitled to the other  
12 discovery, which I think we're entitled to anyway. That's  
13 another hearing. That's another hearing that we're going to  
14 have to be in front of Your Honor. This is as a result of May  
15 4th, Judge, and there's more. This is just the tip of the  
16 iceberg.

17 The other thing that's happened is that when we look  
18 at this material, Judge, and we start to analyze it, we have  
19 to get it to our client and there's a myriad of problems with  
20 the prison and him getting the --

21 THE COURT: Have there been any changes either  
22 within the BOP or generally or the FDC here across the street  
23 that have changed the way in which any given detainee has  
24 access to prepare for trial?

25 MR. DESIMONE: He's telling me right now he hasn't

1 received access to some of the charts, files. He says they're  
2 patient files -- any of them. The same --

3 (Discussion with the defendant off the record.)

4 THE COURT: I think my question was has there been  
5 any changes in the facilities or the policies of the BOP --

6 MR. DESIMONE: I don't know, Judge.

7 THE COURT: -- or the FDC with respect to getting a  
8 detainee access to whatever that person might need in order to  
9 prepare?

10 Ms. Querns.

11 MS. QUERNNS: Not to our knowledge. The discovery  
12 that is sent by the Government to Dr. Nikparvar-Fard he seems  
13 to receive earlier and easier. To the extent we -- to the  
14 extent it is not sent by the Government because it is not  
15 specifically Jencks Act material, we have a very difficult  
16 time having it actually reach him.

17 THE COURT: Okay. Thanks.

18 MR. DESIMONE: So that's the answer to that, Judge,  
19 I guess.

20 THE COURT: And Ms. Costello or Mr. Parisi, if you  
21 know something other than that or any additional information,  
22 you can either tell me now or you can tell me when it's your  
23 turn to talk.

24 Okay, sorry, Mr. DeSimone.

25 MR. DESIMONE: That's okay.

1                   THE COURT: That was a question that was on my mind.

2                   MR. DESIMONE: All right, it was a good question  
3 actually. I just know the difficulty continues on for me when  
4 I talk to him and see him and I don't know if it's Jencks or  
5 not or if it was always this bad or bad. Anyway,  
6 interestingly enough, Judge, if you recall back in January, we  
7 were scheduled to go to trial. We had the Omicron situation.  
8 The Government answered ready. They stated they were ready  
9 for trial. They were ready for trial but hadn't given us  
10 these documents. So it's incredulous, Judge, how they can  
11 answer and say -- they were going to say, Oh, we were ready  
12 and you can't count this time against us, we did our due  
13 diligence because we were ready. Well, they didn't do their  
14 due diligence because they weren't ready and whether that was  
15 negligence or whatever it was, that was wrong because,  
16 obviously, as of May 4th, they weren't ready. So this inures  
17 to the detriment of the defendant, Judge. In the meantime, we  
18 received phone calls, they transcribed phone calls from the  
19 prison, which we didn't know. You know, we assumed they  
20 might, but I didn't know they transcribed phone calls.

21                   MS. COSTELLO: Objection, Your Honor. We did not  
22 transcribe any phone calls.

23                   MR. DESIMONE: Well, they recorded phone calls. I'm  
24 sorry, I used the wrong word, Judge. They didn't transcribe  
25 them, they recorded them. If they didn't transcribe them,

1 that's not my fault.

2 MS. COSTELLO: Your Honor, we did not record them  
3 ourselves, obviously.

4 THE COURT: I think they are naturally recorded.

5 MR. DESIMONE: Well, they are naturally recorded but  
6 we received --

7 THE COURT: So that's no surprise there.

8 MR. DESIMONE: Yes, but, Judge, what we received  
9 affects bail directly and I'll tell you why.

10 THE COURT: Okay.

11 MR. DESIMONE: Some of the things, the calls we're  
12 going to play this morning, and it's Dr. Nikparvar-Fard  
13 speaking to his daughter on the phone, and one of my arguments  
14 is going to be, you know, she's got issues and he would never  
15 do anything to hurt his family or his daughter or leave and I  
16 think we would have played these at other bail hearings,  
17 Judge, had we been given --

18 THE COURT: Well, maybe I can, in focusing my  
19 thoughts about this, I can help focus.

20 MR. DESIMONE: Thank you, Judge.

21 THE COURT: Clearly there's a pretty straightforward  
22 list of considerations from the Court of Appeals. I don't  
23 know how you pronounce it, but the Accetturo case.

24 MR. DESIMONE: The Ruan case just came out.

25 THE COURT: That's a different issue.

1                   MR. DESIMONE: I'm sorry.

2                   THE COURT: That's the legal issue. I'm talking  
3 about the factors whether when pretrial detention might run  
4 afoul of due process, which is what I imagine is your --

5                   MR. DESIMONE: Correct.

6                   THE COURT: -- basic argument and that is how  
7 serious are the charges, they obviously are very serious, how  
8 strong is the Government's case on the merits. That's where  
9 the Ruan case, you may want to use that there.

10                  MR. DESIMONE: Exactly.

11                  THE COURT: Is the case complex? I mean, yes, it's  
12 been designated complex, but is it four and a half years  
13 complex? One might -- that may be a rhetorical question.  
14 What's the risk of flight and the danger to the community.  
15 We've had that issue. I've had that issue for a very long  
16 time with the flight. And you were just beginning to make  
17 reference to that, I think, Mr. DeSimone.

18                  MR. DESIMONE: Yes, I was, Your Honor.

19                  THE COURT: How long has this defendant been  
20 detained? We know it's been, everybody can count, it's 42  
21 months and has there been some sort of blame game going in  
22 terms of who's responsible for the delay?

23                  MR. DESIMONE: Right.

24                  THE COURT: Up until now, it's been essentially --  
25 nobody has really argued that the passage of time is the

1 responsibility of one side or the other. It's just been. I  
2 understand from what you've been saying that the argument now  
3 is that the Government is responsible for the latest  
4 collection of delay.

5 MR. DESIMONE: Yes.

6 THE COURT: So that's pretty much the way the case  
7 law would --

8 MR. DESIMONE: Correct, Your Honor, and I don't  
9 disagree and the passage of time is --

10 THE COURT: I don't care which of these issues you  
11 want to focus on, but you may proceed.

12 MR. DESIMONE: Before Ms. Querns speaks, there's a  
13 very -- it's not so-so that we think from May 4th, it's the  
14 Government's fault. I say, no, Judge, I say when they  
15 answered ready in January and we're ready to go and they said  
16 to you as of Omicron, we're ready, that was a responsibility  
17 from way back, Judge, not only from May the 4th, because if  
18 they answered ready on May the 4th and they didn't produce  
19 these documents until May the 4th, they weren't ready. They  
20 just weren't. And you say the blame game you call it, the  
21 blame game. Well, that's right. We have to -- I mean it's  
22 apparent. So Ms. Querns is going to say something.

23 MS. QUERNNS: Your Honor, as you know, we are here  
24 today because we believe that Dr. Nikparvar-Fard's detention  
25 at this point surpasses what is permissible under the due

1 process clause under the Constitution and I'll address each of  
2 the Accetturo factors.

3                   First, as to time, it's our position that the length  
4 of time alone justified his release under due process. While,  
5 Your Honor, again the Government may disagree with that, we  
6 will address -- we think all of the other factors that Your  
7 Honor previously found may have tipped towards the  
8 Government's favor now tip toward the defendant's favor. For  
9 instance, the cause of the delay. Like you said before, it  
10 was a pretty neutral factor. At this point, it's not neutral  
11 anymore. The Government had all of this evidence beforehand.  
12 Whether or not it was in the possession of former AUSA  
13 Bologna's possession or the current AUSAs, the Government had  
14 possession of all of this evidence for years before they  
15 produced it and for them to produce it now and cause this  
16 delay and require that he continue to be detained pretrial  
17 tips that in his favor at this point because it's not his  
18 fault. The other cases that the Government cites are not --  
19 are not on point for our defendant. He has not filed motions  
20 asking the entire U.S. Attorneys to recuse themselves or  
21 switched counsel seven times. The defendant has done nothing  
22 to cause this delay. While other defendants asked for a short  
23 continuance related to the Ruan case, the Ruan case has been  
24 decided. We could all be before you gearing up for trial  
25 again, yet we're not because of the Government's late

1 production of evidence. The strength of the Government's case  
2 has changed. Both the exculpatory evidence on the most recent  
3 production directly impacts the strength of the  
4 Government's case regardless of what they say. Their own  
5 witnesses who they are going to put on the stand presumably to  
6 testify against our client, their own witnesses are recorded,  
7 without them knowing, saying exculpatory things, things that  
8 Dr. Nikparvar-Fard never did anything, never did anything  
9 illegal, that all of the prescriptions were -- were within  
10 bounds. And, additionally, the Ruan case. Again, it changes  
11 the calculus as to the Government's -- the strength of the  
12 Government's case. They now need to prove that Advanced  
13 Urgent Cares existed for the purpose of prescribing drugs  
14 illegally and that's a high bar. Additionally, some of the  
15 pleas that they got, the witnesses in their statements say  
16 they think they were doing the right thing and for -- now that  
17 Ruan has indicated that to the extent a doctor thinks they're  
18 doing the right thing, it is within bounds, I question how  
19 helpful those witnesses will be at this point. So the  
20 strength of the Government's case has definitely changed.

21 The severity of the charges, yes, the charges before  
22 Dr. Nikparvar-Fard are serious, but he has served significant  
23 time at this point, more time than we have found other  
24 physicians who were found guilty of similar charges are  
25 sentenced to. So the charges are severe, but even if he is

1 found guilty, he has likely served his time at this point.

2 THE COURT: Well, he faces up to 30 years in prison.

3 MS. QUERNNS: Yes, I will not dispute what the  
4 Guideline ranges are.

5 THE COURT: Okay.

6 MS. QUERNNS: And then as to him being a flight risk,  
7 we have a fulsome bail package. And the jail calls that Mr.  
8 DeSimone has referenced, they show how he wants to be with his  
9 kids, he is a devoted family man, and that 20-minute phone  
10 call that the marshals recorded of him being arrested on the  
11 civil contempt charges does not show the entire person that he  
12 is and the jail calls contrast that and show he's not going to  
13 go anywhere. He is in a position now where he has done  
14 significant time, had significant assets up and his case has  
15 gotten better. So it is our position that at this point  
16 continued detention of him would be punishment, that it is not  
17 -- it is excessive in relation to the nonpunitive purpose  
18 which is to assure his appearance here at trial. He is a  
19 nonviolent offender, it is a nonviolent crime, and the  
20 Government has not cited a single case that involves a  
21 similarly nonviolent offender, nonviolent crime, this level of  
22 detention and it being no fault of his own. Thank you.

23 THE COURT: So, as I understand it, you've got  
24 evidence to present.

25 MR. DESIMONE: Yes. Yes, Your Honor.

1                   THE COURT: But first let me offer the Government  
2 the opportunity for what I guess is turning into like an  
3 opening statement.

4                   MS. COSTELLO: Well, thank you, Your Honor. I think  
5 that the defense is mistaken about a lot of things and I want  
6 to focus on the things that matter and not all the nonsense  
7 and I think that what matters is that nothing really has  
8 changed, here, Your Honor. The Government's case is extremely  
9 strong, Your Honor. That hasn't changed. I'm very confident  
10 in this case and the evidence. Ruan changes nothing for us.  
11 I said that before and I'll say it again even after it came  
12 out. We're still going to prove the exact same things that we  
13 were going to prove before, that this was knowing and  
14 intentional. So that doesn't change. And we have, as I said,  
15 six cooperating defendants who are going to corroborate our  
16 expert report and we have the documentary evidence that's  
17 going to corroborate all of them. So the strength of this  
18 case has not changed despite Ruan. Ruan is a red herring,  
19 Your Honor. Certainly it's going to require a tweak in jury  
20 instructions similar to what we did, but it's not going to do  
21 so very much. It doesn't change what we intended to prove.  
22 He's still a flight risk, Your Honor. He's still going to  
23 ignore the Court's orders. He's still a threat to the  
24 Government witnesses. And if I remind the Court of a letter  
25 that AUSA Jason Bologna sent to the Court about the defendant

1 reaching out to our expert witness, sending a letter like a  
2 discovery request, surreptitiously using a fake envelope with  
3 the lawyer's name on it, I think you remember what I'm  
4 speaking about.

5 THE COURT: I do.

6 MS. COSTELLO: That's what he does behind bars.  
7 What do you think he's going to do when he's out? Okay, he  
8 loves his daughter. Okay, we'll stipulate to that, Your  
9 Honor. I think he loved her when he was doing these crimes  
10 too and I think he loved her at the other bail hearings and I  
11 don't think that's a big factor because nothing has changed as  
12 far as his personality, who he is and what he's done and what  
13 he's in danger of doing. And if he's got all these assets,  
14 like I think Ms. Querns says he has significant assets, well,  
15 why aren't they pledged? It seems to me based on these bail  
16 conditions, he doesn't have much to lose, Your Honor, because  
17 it's not his stuff and I think it's something that should be  
18 taken into consideration. This is a man who threatened United  
19 States Marshals, threatened to kill them, threatened to kill  
20 another witness, failed to appear, has civil contempt orders  
21 against him, had a concealed weapon on him when he was picked  
22 up on that. I mean these facts haven't changed and a lot of  
23 this is just a distraction to keep the Court from focusing  
24 back on those things, the things that really matter from  
25 making a decision. And one other mistake at least that Ms.

1 Querns makes was to say this information was in possession of  
2 AUSA Bologna or perhaps us before. It was not, and she knows  
3 that and we've talked about it, and so I think they should get  
4 their facts straight before they start making accusations,  
5 Your Honor. I don't appreciate that.

6 THE COURT: Where was it?

7 MS. COSTELLO: It was in the possession of the FBI.  
8 No, you said AUSA Jason Bologna and then you said us. Neither  
9 one of us had it at the time. As soon as it came into my  
10 possession, we turned it over without even reviewing it  
11 ourselves, Your Honor, because we recognized the importance of  
12 getting it out and that it needed to go out and that was done.  
13 So their complaint is that we produced discovery as we were  
14 required to do. I mean what else are we supposed to do, Your  
15 Honor? I mean we did what we were supposed to do. And as far  
16 as this stuff being exculpatory, that is bananas. Excuse my  
17 slang, Your Honor, but I think Mr. DeSimone said --

18 THE COURT: Well, why do bananas get a bad name?

19 MS. COSTELLO: I don't know.

20 THE COURT: You know, what's the problem with  
21 bananas?

22 MR. DESIMONE: It's a good fruit too.

23 THE COURT: Sorry.

24 MS. COSTELLO: Mr. DeSimone said there's legion of  
25 instances of exculpatory evidence and there's not a single

1 piece of exculpatory evidence in their brief. Why didn't they  
2 bring it out? All of the stuff they put in here is  
3 irrelevant, silly nonsense again. I think it's just a  
4 distraction to keep the Court focusing on what matters, which  
5 is, is passage of time enough to say that we're willing to  
6 take a risk and put this defendant back on the street? And I  
7 think the risk is too high, Your Honor, and that's my opening  
8 statement.

9 THE COURT: Okay. Well, as I said, I wanted to  
10 be --

11 MR. DESIMONE: Fair.

12 THE COURT: -- symmetrical.

13 MR. DESIMONE: I just want to say one thing.

14 THE COURT: More of an opening.

15 MR. DESIMONE: I want to thank you, Ms. Costello,  
16 for making my point where she said that I'm bananas and the  
17 stuff is bananas which shows we're going to have a hearing and  
18 we're going to see how bananas we are, whether this is  
19 exculpatory, and you're going to have to make more rulings  
20 thanks to the Government. Judge, I don't care who had it, I  
21 didn't say Ms. Costello had it or Mr. Bologna. I didn't cast  
22 aspersions on anybody. The Government had it. The FBI had  
23 it. And it's -- we didn't have it. They had it. They have a  
24 duty, and the cases are here, it doesn't matter who has it.  
25 The Government had it. And it took them three and a half

1 years or two and a half years to give it to us.

2 Do you have anything you want to say? You said --

3 MS. QUERNS: The new production also indicates that  
4 AUSA Bologna was being briefed on this informant the entire  
5 time. So if it was in the possession of the FBI and not  
6 physically at the U.S. Attorney's Office, I don't know. I'm  
7 not trying to disparage anyone. We just didn't have it, we  
8 didn't know it existed.

9 MR. DESIMONE: So you have it.

10 MS. QUERNS: And the evidence suggests that they  
11 did.

12 MR. DESIMONE: Judge, may I call my witnesses?

13 THE COURT: Sure.

14 MR. DESIMONE: Should I stand over here or I'll come  
15 up?

16 THE COURT: Where do you plan the witness to be?

17 MR. DESIMONE: Sit up there on the witness stand.

18 THE COURT: Then why don't you use the lectern.

19 MR. DESIMONE: I just, with juries, I always think  
20 there's a jury box and I lose my perspective.

21 THE COURT: This is a pretty empty box.

22 MR. DESIMONE: I --

23 THE COURT: Unless you want us to bring in a  
24 hologram jury.

25 MR. DESIMONE: That would be good, Judge, yes.

3 NIUSHA HOUSHMAND SWORN

4 THE DEPUTY CLERK: Could you please have a seat and  
5 state and spell your full name for the record.

6 THE WITNESS: My first name is N-I-U-S-H-A and my  
7 last name is H-O-U-S-H-M-A-N-D.

10 THE WITNESS: Good. How are you?

11 THE COURT: I'm okay so far.

12 THE WITNESS: Good.

13 THE COURT: Go ahead.

14 DIRECT EXAMINATION

15 BY MR. DESIMONE:

16 Q. Niusha --

17 MR. DESIMONE: May I call her Niusha, Judge?

18 THE COURT: Whatever.

19 BY MR. DESIMONE:

20 Q. Niusha, I want you to speak up loud and clearly. How  
21 many children do you have?

22 A. I have two children.

23 Q. You heard the Government say that nothing has changed  
24 since 2017 or '18. Would you tell us about your daughter, how  
25 she was in 2017 first. How was she?

1 A. Okay. In 2017, she was very happy girl and all of her  
2 grades is perfect. We never had a problem. The  
3 psychology/psychiatric doctor, she had a stay in the hospital.  
4 And now it's -- okay.

5 Q. All right. So now in 2017, you said things were okay.

6 A. Yes.

7 Q. Did you ever hear, were you ever present or did you ever  
8 hear conversations between your husband and her on the  
9 telephone?

10 A. Yes.

11 Q. Okay. How did your husband feel about -- did he ever  
12 express to you how he feels about his daughter?

13 A. You know, he really cared for my daughter and even my son  
14 and all the time that they talk on the phone, they are just --  
15 it's about their love, about their caring. He really cares  
16 about his children.

17 Q. We need to know if something has changed within the last  
18 year or two with your daughter. Would you tell Your Honor if  
19 something has changed?

20 A. My daughter, because all of these things has happened and  
21 the Court unfortunately keep postponing and the date changed,  
22 and last year, she start to be very, very depressed and in the  
23 last September, she was really bad. She stayed in the  
24 hospital for two weeks, almost two weeks. She's under  
25 medication and a doctor keeps increasing the dose and also

1 it's really affecting her studies. She couldn't take it two  
2 times, the SAT, because she is in 11th grade and this is the  
3 year that she needs.

4 THE COURT: She's in 11th grade?

5 THE WITNESS: Yes. She needs to do the SAT and the  
6 essay for the college, but I cannot, you know, ask her to  
7 study for this herself because she's not in a position, you  
8 know, that she can study and focus on her studies and she's  
9 seeing the psychiatrist doctor and the psychology doctor and  
10 now she's unfortunately under suicide watch because of all of  
11 these things that happened and she's very sensitive too.  
12 She's really daddy's girl. And even when I heard that the  
13 Court has rescheduled for the January, I don't know how to  
14 tell her. I'm scared that something will happen because any  
15 time that I tell her about the Court, she's panicking and  
16 something new happened to her. So I'm trying to talk with the  
17 doctor and the psychiatrist to see in which way we can talk  
18 with her to make sure she calm and, you know, she can handle  
19 this, that the Court has still rescheduled for the January  
20 meeting.

21 Q. Does she have a specific problem that they diagnosed when  
22 she was in the hospital?

23 A. Yes. She was diagnosed, because all of the depression,  
24 she was diagnosed with eating disorder. She stopped eating.  
25 What's it called, anorexia, if I'm not mistaken. And the

1 doctor talks with her every day and they said all of this  
2 happened is because she is really, really depressed for her  
3 dad and she says I don't understand why the Court was supposed  
4 to be in 2019 and why this is all happening. I really want it  
5 to be done. And she's just 16 years old. You know, it's  
6 really hard for her. That's why I was panicking to tell her  
7 about the January, she doesn't know that.

8 Q. That wasn't her condition in 2017?

9 A. Absolutely not.

10 Q. Does your husband know about that?

11 A. Just a little. She doesn't -- he doesn't know all of the  
12 details and I'm trying to not to tell him.

13 Q. Okay. Fine.

14 MR. DESIMONE: I have no further questions.

15 BY MR. DESIMONE:

16 Q. And, by the way, your son, did he have a problem too?

17 A. He does have a problem, too, because he's actually like  
18 the only man in our family and he thinks that all of the  
19 responsibility of the things that happen to the sister, you  
20 know, he's trying to just helping her, but it was an effect on  
21 him, too, and he was really very depressed while all this  
22 happening to my daughter and it ended up that I talked with  
23 the advisor and the advisor says that I highly recommend that  
24 your son drop his courses because he's in a very high  
25 depression. So it ended up at the end of the term he dropped

1 his course.

2 Q. What school was he in?

3 A. Lehigh University.

4 Q. Lehigh University. And he had to drop out for a  
5 semester?

6 A. Yes.

7 Q. Okay. The judge is concerned about a flight risk. Would  
8 your husband leave?

9 A. Absolutely not because he really, really cares for his  
10 family. Really cares. Especially my children and he's not  
11 going to do anything that, you know, hurt his family. I know  
12 that. He's not going to do it.

13 MR. DESIMONE: Thank you. Your witness.

14 THE COURT: Ms. Costello.

15 MS. COSTELLO: Yes, Your Honor.

16 CROSS-EXAMINATION

17 BY MS. COSTELLO:

18 Q. Good afternoon.

19 A. Good afternoon.

20 Q. I just want to make sure you understand the situation  
21 here today and going forward. You do understand, don't you,  
22 that your husband faces the possibility of decades in prison?

23 A. I'm not sure because the Court -- we don't know yet. The  
24 Court is going to be in January. We haven't resolved it.

25 Q. You don't know what the possibility is if he's convicted?

1 A. I know the possibility, but I really hope that everything  
2 goes well. I'm not sure if he's guilty or not.

3 Q. Oh, I understand that. I'm not saying he's guilty.  
4 We're going to have a trial, okay?

5 A. Yes.

6 Q. My question is do you recognize if he's convicted, he  
7 faces a possibility of decades in prison. Do you understand  
8 that?

9 A. Yeah.

10 Q. Okay.

11 MS. COSTELLO: Thank you, Your Honor. Nothing  
12 further.

13 THE COURT: Is there any redirect?

14 MR. DESIMONE: No, Your Honor.

15 THE COURT: Well, I have just one question. Who  
16 owns the property there in Penn Valley?

17 THE WITNESS: The trust owns the property.

18 THE COURT: Who are the beneficiaries of the trust?

19 THE WITNESS: My children. My son and my daughter.

20 THE COURT: Do you know if it's what we call a  
21 revocable trust or an irrevocable trust?

22 THE WITNESS: Yeah, I do.

23 THE COURT: Do you know which it is, what kind of  
24 trust?

25 THE WITNESS: I think it's -- we had --

1                   THE COURT: Can you get the property back from your  
2 kids, from the trust?

3                   THE WITNESS: Yeah, we had an attorney last year  
4 from the Blank Rome. They say that they can put the house on  
5 my son's name since he's 18 now. We can transfer the title to  
6 my son's name.

7                   THE COURT: Okay. Right now the house is still in  
8 the name of the trust, is that right?

9                   THE WITNESS: Yes. Yes.

10                  THE COURT: Do you know or do you have any belief  
11 that the house could go back into your name or your  
12 husband's name now?

13                  THE WITNESS: I don't know about that if it can go  
14 on my name or my husband's name, but they told me that it can  
15 go to my son's name.

16                  THE COURT: I understand that part. Where is your  
17 daughter now? Where is she today?

18                  THE WITNESS: She's at home and given I told my son  
19 to come and stay with her because she really wanted to come  
20 today. This morning she was crying.

21                  THE COURT: Is anybody there watching her?

22                  THE WITNESS: Yes, my son. My son taking off. He's  
23 working, but I ask him to take off because I want to leave the  
24 house and he stay with my daughter until I go home.

25                  THE COURT: What is your -- your son's not in

1 school, right?

2 THE WITNESS: No, no, he's working here in the  
3 summer.

4 THE COURT: What is he doing?

5 THE WITNESS: He's a swimming coach at the camp, the  
6 kids camp, summer camp. He's just teaching the kids swimming.

7 THE COURT: When did he drop out of Lehigh?

8 THE WITNESS: For the semester -- not -- two  
9 semesters.

10 MR. DESIMONE: Ago.

11 THE COURT: Did he go to school last year at all?

12 THE WITNESS: Oh, yes.

13 THE COURT: So when did he drop out?

14 THE WITNESS: Not the last semester, the semester  
15 before that.

16 THE COURT: The fall semester?

17 THE WITNESS: Yes, the fall semester.

18 THE COURT: He went back to school this spring?

19 THE WITNESS: Yes.

20 THE COURT: What year is he, a freshman, a  
21 sophomore, what?

22 THE WITNESS: He's a second year of the college.

23 THE COURT: Okay. Does your daughter have a summer  
24 job?

25 THE WITNESS: No, because I'm trying to --

1                   THE COURT: No, no, no, I just want to know if she  
2 has a job.

3                   THE WITNESS: No. No. I cannot leave her because  
4 she's under suicide watch. I have to be with her all the  
5 time.

6                   MR. DESIMONE: Judge, in light of your questions,  
7 may we see you at sidebar with the U.S. Attorney with -- we  
8 want to do this at sidebar.

9                   THE COURT: I don't quite understand.

10                  MR. DESIMONE: Well, it has to do with her daughter.

11                  THE COURT: Well, I don't know that you need  
12 anything more.

13                  MR. DESIMONE: Well, there's one thing you asked why  
14 she's not here this morning.

15                  THE COURT: I've got an answer.

16                  MR. DESIMONE: Well, all right.

17                  THE COURT: I mean, I'm not --

18                  MR. DESIMONE: Can I see --

19                  THE COURT: All I really wanted to know is where she  
20 was.

21                  MR. DESIMONE: Can I see Your Honor?

22                  THE COURT: That's all I really cared about.

23                  MR. DESIMONE: Can I see you with the U.S. Attorney  
24 at sidebar, Your Honor?

25                  THE COURT: Yes.

1 And Ms. Feldman, yes?

2 MR. DESIMONE: Oh, yes.

3 (Sidebar:)

4 MR. DESIMONE: She didn't want the husband to hear  
5 this, but what happened this morning is the daughter cut  
6 herself.

7 THE COURT: Okay, all I wanted to know --

8 MR. DESIMONE: I understand. I understand, Judge.

9 THE COURT: I don't need to know any more.

10 MR. DESIMONE: Well, she was cutting herself this  
11 morning because she had to come down here to court.

12 THE COURT: She didn't have to come. I just  
13 wanted -- I got the answer to the question.

14 MR. DESIMONE: No, I just wanted to make clear.

18 MR. DESIMONE: Okay.

19 (End of sidebar)

20 THE COURT: As a result of the Court's questions of  
21 the witness, do either counsel have any further questions for  
22 her?

23 MR. DESIMONE: No, Your Honor.

24 MS. COSTELLO: No, Your Honor.

25 THE COURT: Okay, you can step down. Thanks.

1                   THE WITNESS: Thank you.

2                   MR. DESIMONE: I call Dr. Nikparvar-Fard.

3                   THE COURT: Fine.

4                   MEHDI NIKPARVAR-FARD SWORN

5                   THE DEPUTY CLERK: Please state your full name and  
6 spell your last name for the record.

7                   THE WITNESS: Mehdi Nikparvar-Fard. Also Mehdi  
8 Armani.

9                   THE COURT: Sir, although there's no requirement,  
10 most witnesses when they are testifying, and unless you feel  
11 strongly against this, most witnesses remove the mask so that  
12 the court reporter can understand what's being said, but if  
13 you feel at all vulnerable as a result of that, that's fine,  
14 we'll do the best we can.

15                   THE WITNESS: Okay.

16                   THE COURT: But do keep your voice up, okay?

17                   Mr. DeSimone, you can proceed.

18                   DIRECT EXAMINATION

19                   BY MR. DESIMONE:

20 Q. Doctor, the lady who just testified is your wife, is that  
21 right?

22 A. Yes.

23 Q. And she was talking about your daughter, correct? Your  
24 daughter, is that right?

25 A. Yes.

1 Q. Tell me -- tell Her Honor how you feel about your  
2 daughter and her condition and everything else. Take us  
3 through your relationship with your daughter because we're  
4 going to play some tapes, but go ahead, Doctor.

5 A. I'm kind of disturbed at this moment. I don't know. I  
6 had no conversation with the Judge and I'm very disturbed.

7 Q. Why?

8 A. Because my wife doesn't keep me updated. Very disturbed.  
9 Very disturbed with the fact that you discussed with the  
10 judge. But I have very strong inclination with my son and  
11 with my wife.

12 Q. Would you do anything to hurt --

13 A. Absolutely not. Everything -- my life is over. I'm 52.  
14 My productive life is over. I may have another 10, 20, 30  
15 years more. Those are next generation. They are the ones  
16 that I put all of my life, for them, so I wanted them to be  
17 having a joyful life. I wanted them to be happy.

18 Q. So if you were put on -- if Your Honor granted the bail  
19 petition, would you honor that? Would you stay and honor the  
20 petition and not try to do anything to leave?

21 A. Absolutely. Absolutely. There's nothing for me to  
22 leave. I mean leave when? Leave what? I mean where do I go?  
23 Go to Ramos to do what? My life is over. I mean it's just  
24 nonsense.

25 Q. And your family, how important is your family to you?

1 A. All of my life is my family.

2 Q. Doctor, I'm going to play some -- we have some recordings  
3 we were given. I want you to listen to them. These are in  
4 October and they were from --

5 MR. DESIMONE: If I might lay a foundation, Your  
6 Honor.

7 BY MR. DESIMONE:

8 Q. -- from prison of you, with you and your daughter talking  
9 about school. So we're going to play some of the tapes.

10 MR. DESIMONE: It's October and December, Ann.

11 MS. QUERNNS: I have four tapes randomly from the --

12 MR. DESIMONE: Play a couple.

13 They're not that long, Your Honor.

14 (Tape recording played)

15 MR. PARISI: Your Honor, just for clarification of  
16 the record, can counsel or somebody just tell us the date of  
17 the call?

18 THE COURT: That would be helpful.

19 MR. DESIMONE: Yeah, it's like ten seconds.

20 MS. QUERNNS: This one is December 7.

21 MR. DESIMONE: December 7 what?

22 MS. QUERNNS: December 7, 2017, 11:58 p.m. It's what  
23 the file name is. I don't know if that represents the --

24 THE COURT: 11:58 p.m.?

25 MS. QUERNNS: That is what the file name is. I'm not

1 sure whether, what time it corresponds to or not.

2 THE COURT: Okay.

3 BY MR. DESIMONE:

4 Q. What time would you usually talk to your daughter,  
5 Doctor?

6 A. I always make two phone calls. One in the morning so I  
7 can talk with my wife if there is anything regarding the legal  
8 stuff. I don't want them to hear anything about the legal. I  
9 wanted them to have peaceful life. I don't want them to be  
10 disturbed. And then when they come back from the school,  
11 afternoon phone call is only for kids and all of the phone  
12 calls that I made to my kids is in the afternoon.

13 Q. Okay. So this is sometime in the afternoon?

14 A. Yeah, 3:30.

15 Q. All right, not 11:58?

16 A. 5 p.m., something like that.

17 MR. DESIMONE: And so for the record, Your Honor --

18 BY MR. DESIMONE:

19 Q. The people on the phone call, if you can identify them?

20 A. Yes, my daughter and my son.

21 Q. Okay. Fine.

22 A. And my wife. And when I talk to her, first I ask if the  
23 kids are home, can I talk to them. That's the translation of  
24 my Persian language.

25 (Tape recording played)

1                   THE COURT: Could I just have an estimate as to how  
2 long -- this is a December 2017 --

3                   MR. DESIMONE: Yes, Your Honor.

4                   THE COURT: -- phone call?

5                   MR. DESIMONE: How long is the call?

6                   MS. QUERNNS: There's approximately four more  
7 minutes.

8                   THE COURT: All right, how long are each of these  
9 calls?

10                  MR. DESIMONE: Yeah, I thought they were 5 or  
11 10 minutes.

12                  MS. QUERNNS: We don't need to play all of them.

13                  MR. DESIMONE: We're not going to play them all.

14                  THE COURT: Well, this one is -- you know, I don't  
15 mean to control how you do this, but we're sitting here in  
16 July of 2022. I'm not quite sure what I'm supposed to be  
17 listening for in a December 2017 phone call.

18                  MR. DESIMONE: You're listening to --

19                  THE COURT: I know what I'm listening to, Mr.  
20 DeSimone.

21                  MR. DESIMONE: No, I know.

22                  THE COURT: I'm not sure why I am listening to it.

23                  MR. DESIMONE: That's why I'm explaining this. Why  
24 you're listening to this is you're hearing this man speak to  
25 his daughter --

1                   THE COURT: His son, actually, he's speaking to.

2                   MR. DESIMONE: Is that your son or daughter?

3                   THE WITNESS: My son.

4                   MR. DESIMONE: Is that your son?

5                   I thought that was his daughter. I can't even hear  
6 the tape.

7                   THE COURT: Right now they're talking about physics.

8                   MR. DESIMONE: I understand, Judge. I understand.

9                   But the concern he has --

10                  THE COURT: I get it. I understand it, but I'm  
11 still talking about why in July of 2022 am I going to be  
12 focused on a 2017 phone call.

13                  MR. DESIMONE: The Government is telling you that  
14 he's a flight risk. He is telling you that he wouldn't do  
15 anything to hurt his children.

16                  THE COURT: I understand that.

17                  MR. DESIMONE: And these phone calls are showing  
18 Your Honor how much he cares for his children and his  
19 daughter, who his wife just testified, has gotten sick since  
20 then. So it's more, all the more reason he's not going to do  
21 anything to flee while they're here.

22                  THE COURT: I'm just -- I just wanted to know how  
23 long.

24                  MR. DESIMONE: That's why.

25                  THE COURT: How long is this portion and why 2017?

1 That was my question. What are the other excerpts that we're  
2 going to be --

3 MR. DESIMONE: Sure. Do you have any of his  
4 daughter?

5 MS. QUERNNS: Yeah, she's on the end of the tape, and  
6 after this tape, we can provide the rest to the extent --

7 MR. DESIMONE: To the Court.

8 THE COURT: No, I just want to know the date and the  
9 length of time.

10 MS. QUERNNS: They're -- there is one from October,  
11 there's one from November.

12 THE COURT: Of what year?

13 MS. QUERNNS: All 2017. They were just produced.

14 THE COURT: All from 2017?

15 MS. QUERNNS: Yes.

16 THE COURT: All right, I don't need to listen to  
17 2017.

18 MR. DESIMONE: We don't have any other ones, Judge.

19 THE COURT: Okay. I accept the representation of  
20 counsel and the witnesses that the defendant cares for his  
21 kids.

22 MR. DESIMONE: Right. Okay.

23 THE COURT: And I think that the Government's counsel  
24 stipulated to that --

25 MR. DESIMONE: Fine.

1                   THE COURT: -- as well.

2 BY MR. DESIMONE:

3 Q. So, therefore, would you do anything to hurt your  
4 children?

5 A. Absolutely not.

6 Q. Would you leave, would you violate the bail conditions  
7 and leave?

8 A. Absolutely not.

9 Q. And you know that would hurt your children, do you not?

10 A. Absolutely. They not only -- hurt them mostly, but  
11 they're going to lose their home. I'm not going to let them  
12 to lose their home. I'm not going to let them to lose their  
13 assets. These are -- these are what they need for future.

14 Q. And you heard the present condition of your daughter,  
15 right --

16 A. Yes.

17 Q. -- how fragile it is?

18 A. Yes. That's correct, yes.

19 Q. Would you do anything?

20 A. Absolutely not. Absolutely not.

21                   MR. DESIMONE: That's all. That's all I have.

22                   THE COURT: Okay, focus only on the issues that  
23 bring us here today.

24                   Does the Government have any questions of the  
25 witness?

1 MS. COSTELLO: May I have a moment, Your Honor?

2 THE COURT: Sure.

3 MS. COSTELLO: Okay. Yes, Your Honor.

4 THE COURT: Go ahead.

5 CROSS-EXAMINATION

6 BY MS. COSTELLO:

7 Q. Dr. Nik, good afternoon.

8 A. Good afternoon.

9 Q. You testified repeatedly that you would do nothing to  
10 hurt your children, isn't that what you said?

11 A. Yes, I did.

12 Q. That's not true, is it?

13 A. It is true.

14 MR. DESIMONE: Objection, Judge. You just said just  
15 focus on the things in the case.

16 MS. COSTELLO: If I may, Your Honor.

17 THE COURT: Well, why don't you just let me overrule  
18 the objection and I know counsel listened to what I had to  
19 say. The premise of the question was the witness' own  
20 statement here just a minute ago.

21 MR. DESIMONE: Fine.

22 THE COURT: So, you know, I'm sure we'll keep track  
23 of how far or narrow the questions are.

24 Go ahead.

25 MS. COSTELLO: Thank you, Your Honor.

1 BY MS. COSTELLO:

2 Q. Isn't it true, sir, that you got yourself convicted for  
3 threatening a United States Marshal?

4 A. Yes, it is true.

5 Q. And you went to jail for that, didn't you?

6 A. Yes.

7 Q. That probably hurt your daughter, didn't it?

8 MR. DESIMONE: Object.

9 THE COURT: Overruled.

10 THE WITNESS: I'm sure it did.

11 BY MS. COSTELLO:

12 Q. And you got yourself into that pickle because you were  
13 found in civil contempt, isn't that right?

14 A. That's true.

15 Q. Because you failed to participate in civil proceedings  
16 against you, isn't that right?

17 A. Well, that was a start of what happened to me and it was  
18 -- I was very, very emotional at that time when they arrested  
19 me and dragged me in front of my patients and that emotional  
20 disturbance got the best of me.

21 Q. Um-hum, and it caused your daughter some pain too, didn't  
22 it?

23 A. Definitely. I'm sure it did.

24 Q. And you had a concealed weapon on you when you made that  
25 threat, isn't that right?

1 A. Yes, I did.

2 Q. And at any time did you also threaten a former employee  
3 who was a witness in a state court proceeding, sir?

4 MR. DESIMONE: Objection, Your Honor. What are we  
5 talking about? Another case?

6 MS. COSTELLO: Um-hum. We're talking about the  
7 defendant's risk of flight, Your Honor.

8 MR. DESIMONE: No, Your Honor.

9 MS. COSTELLO: Well, yes, Your Honor, it is.

10 MR. DESIMONE: Well, no, in another -- how do I  
11 respond?

12 THE COURT: The testimony is he would do nothing to  
13 violate the conditions.

14 MR. DESIMONE: Correct, Judge, how many times do I  
15 beat my wife. She said you threatened a witness in another  
16 state court proceeding.

17 THE COURT: I think everybody can accede to the fact  
18 none of this is new to the Court.

19 MR. DESIMONE: Okay.

20 THE COURT: I've heard all of this. Everybody has  
21 argued it one side or the other to these many years and I  
22 don't imagine any of the history has changed.

23 MS. COSTELLO: Thank you. All right.

24 THE COURT: Counsel is just trying to remind the  
25 Court of all these things that I have very much on a list in

1 front of me. I want to thank you very much.

2 MR. DESIMONE: Judge, may I ask, what employee and  
3 what judge?

4 THE COURT: Sure. What are you talking about, Ms.  
5 Costello?

6 MS. COSTELLO: It was, I believe, a former employee  
7 who was suing I think it was -- maybe it was unemployment  
8 compensation.

9 MR. DESIMONE: Whatever it is, Judge, I think it  
10 might have been, I have no idea what she's talking about.

11 THE COURT: Okay, folks.

12 MS. COSTELLO: It's in the briefing. Have you read,  
13 it, Frank?

14 MR. DESIMONE: Who cares about reading the briefing.

15 THE COURT: Well, I care about reading the briefing.

16 MR. DESIMONE: Well, but there's not --

17 THE COURT: Okay, everybody, go back to your  
18 corners, kids.

19 My focus could not be more clear today. Could not  
20 be more clear. You know, I went through the factors that are  
21 set forth by the Third Circuit right upstairs that I have to  
22 focus on and these have been the factors since 1986. There  
23 they are. (Indicating) Thanks.

24 MS. COSTELLO: Thank you, Your Honor, and I will  
25 move on, if I may?

1                   THE COURT: Sure.

2 BY MS. COSTELLO:

3 Q. Let me ask you about the proposed conditions of release,  
4 okay? It says you'll post a \$50,000 cash bond, is that right?

5 A. Yes.

6 Q. Now, isn't that significantly lower than what you agreed  
7 to post before?

8 A. Yes, it is.

9 Q. Okay. And then you're going to post this property in  
10 South Carolina which is -- but that property's in trust,  
11 right?

12 A. I don't know if it's in the trust or if it's in -- I  
13 don't -- I think it is in the trust, yes.

14 Q. Okay, so it's not in your name, right?

15 A. No, it's not in my name.

16 Q. And then there's some equity in a house that's owned by,  
17 and forgive me, I cannot pronounce these names, but a person,  
18 last name Fazelinia and Razzaghi?

19 A. Yes.

20 Q. Okay, that's not in your name, right?

21 A. No, they are not in my name.

22 Q. And then you're posting some property within the names of  
23 the Razzaghis -- again, the Razzaghis -- Khadijeh, I'm sorry  
24 if I'm messing up these names, Mehdi Razzaghi, right?

25 A. Yes.

1 Q. Not in your name, right?

2 A. No, they're not in my name.

3 Q. Okay. Would you agree with me, sir, that based on these  
4 conditions, you don't have very much to lose if you run, is  
5 that right?

6 A. I have everything to lose. My family, my kids. Those  
7 are everything I have. I have nothing else.

8 Q. Well, they're not pledged here, right --

9 A. No.

10 Q. -- based on these conditions?

11 A. I think they are. When my kids pledge their only asset  
12 they have, when my friends who don't owe me anything, who I do  
13 not employ them, they know me from my personality, they have  
14 been dealing with me, staying with me, knowing me for many,  
15 many years and they come forward and they put their entire  
16 savings they worked their whole life to have this savings, and  
17 without even thinking of one second, they put that as a  
18 condition of bail --

19 Q. Right.

20 A. -- those are --

21 Q. Sir, I understand what these people have to lose, but you  
22 don't have much to lose here.

23 A. I have everything to lose.

24 Q. Really? It's very different from what you testified to  
25 on direct examination. You said your life is over, didn't

1 you?

2 A. Yes, it is. I don't care about --

3 Q. So you actually have nothing to lose, do you?

4 A. My -- I do have -- if you allow me to answer the  
5 question, I will answer it.

6 Q. Well, sir, my question is focused --

7 MR. DESIMONE: Objection. Let him answer this.

8 THE COURT: Okay, Ms. Costello, let him finish.

9 MS. COSTELLO: Sure.

10 THE WITNESS: There are -- everything I have is with  
11 my kids, my wife. That's all I have. I have nothing else. I  
12 really don't care about myself. The only thing I care about  
13 is their well-being, they be safe, and they have a future. If  
14 they're happy, if they can just forget about me and move on,  
15 that would be the best option for me, but they can't. They  
16 are emotionally connected to me and I cannot let that destroy  
17 their lives. So everything I do, I have to make sure they  
18 have a good life and enjoy their life. When I call my wife  
19 and she cry over the phone, I get upset not because I'm in the  
20 jail, just because I told her, listen, imagine I had a car  
21 accident and I die, you have to have your own life. You need  
22 to -- you need to have -- you need to think about your kids.  
23 You need to be able to enjoy your life. You can't just be  
24 upset about me all the time. So everything I have is them.  
25 For me to lose them, for me to let them get hurt physically or

1 emotionally or financially, they are going to lose their  
2 houses, my friends are going to lose their houses, it's  
3 unimaginable for me to let all that happen. It's just -- it  
4 just -- we are talking in a different world. I don't know how  
5 -- I don't know how to explain it. My world of thinking is  
6 completely different thinking from all as to whether it's in  
7 your name or not.

8 Q. That's very, very convenient for you, isn't it, that it's  
9 not in your name?

10 A. Convenient? I don't understand what you mean.

11 Q. I think you do.

12 MS. COSTELLO: May I, Your Honor?

13 Nothing further, Your Honor. Thank you.

14 THE COURT: Any redirect?

15 MR. DESIMONE: Just one other, Your Honor.

16 REDIRECT EXAMINATION

17 BY MR. DESIMONE:

18 Q. Dr. Nik, would you explain to the Court why the cash bail  
19 is lower.

20 A. We have really -- this -- this trial, of course, is going  
21 to be financially extremely expensive for me. I don't have a  
22 public defender, I have to pay my lawyer on hourly basis, and  
23 on top of that, the detention itself has caused significant  
24 amount of financial expenses on my family. For example, I  
25 have to have my lawyer to represent me when I give you some

1 charts. So in addition to these two lawyers, you and her, I  
2 had to hire or pay to another lawyer to come to jail so I can  
3 give you the chart. I cannot do anything with the  
4 communications so I have to hire another individual or pay --  
5 not hire, pay another individual to write and type and  
6 document the stuff that I want to be able to pass it to you or  
7 to Ann. So I write it, this goes to somebody who has to type  
8 it, and then that will be the communication to you. In  
9 addition to that, because of the only revenue that my family  
10 had is from vacation rental in South Carolina and because of  
11 the Corona last year, the vacation rental just completely  
12 flattened out. We're hoping that this year might be better,  
13 but we almost lose one and a half years of income and that is  
14 significant amount of financial burden on me and that is the  
15 reason why my wife wanted to try to ask for the bank to get a  
16 mortgage and put more money and I said, no, I'm not going to  
17 go home with that. I'm going to stay here. I'm not going to  
18 let you or let my kids to go through a loan, to get a loan  
19 from the bank to pay for my release. I mean just I'm going to  
20 stay if that's the case.

21 MR. DESIMONE: Thank you.

22 MS. COSTELLO: Nothing here. Nothing from the  
23 Government, Your Honor.

24 MR. DESIMONE: Judge, we rest. We have nothing  
25 else.

1                   THE COURT: Okay. You can step down, sir.

2                   Are there any financial statements at all? I'm  
3                   puzzled a little bit because it sounds to me as though there's  
4                   some reservation of resources in order to pay for legal  
5                   expenses as opposed to there's no disclosure as to what  
6                   financial resources this defendant has at his disposal.

7                   MS. QUERNNS: Well --

8                   THE COURT: It's just a natural question and why  
9                   we're concerned.

10                  MS. QUERNNS: We can provide financial statements or  
11                  whatnot, but the cash bail amount --

12                  THE COURT: Well, it has changed over --

13                  MS. QUERNNS: It has remained -- this is the same as  
14                  it was in the last application, but there were times when it  
15                  was higher earlier on in the process before the case has  
16                  continued to go on. So if Your Honor would like financial  
17                  statements or attorneys' bills --

18                  THE COURT: I'm not in the business of saying what  
19                  evidence you should choose to provide. I just -- it's really  
20                  up to you all, frankly.

21                  MR. DESIMONE: Well, we have --

22                  THE COURT: As it has been all along.

23                  MR. DESIMONE: The only thing is, Your Honor, we  
24                  would really if the Court would give us -- I mean we have  
25                  presented -- we've listened to Your Honor and Your Honor had

1 alluded to the fact that at one point in time that you'd like  
2 to hear the defendant and we weren't prepared to put him on,  
3 we did put him on today, and if --

4 THE COURT: Well, no, I didn't say I wanted to hear  
5 him.

6 MR. DESIMONE: No, no, no, I know you didn't say  
7 that.

8 THE COURT: What I said was that it would seem to me  
9 that at least among the various issues that the defendant's  
10 had to deal with was the question of the earnestness with  
11 which one might evaluate whether or not --

12 MR. DESIMONE: I understand.

13 THE COURT: -- he was a flight risk, et cetera, et  
14 cetera.

15 MR. DESIMONE: I understand.

16 THE COURT: I didn't say what I wanted or didn't  
17 want.

18 MR. DESIMONE: No, but it is good to have some  
19 guidance from the Court. So, I mean, instead when we sent you  
20 10, 15 tapes to listen to and you don't want to hear that --

21 THE COURT: No, I just said what I wanted to know  
22 was what the dates were that you had and --

23 MR. DESIMONE: Well, they're the only ones we have.  
24 We don't have from 2018 and 2019. We don't have those, Judge,  
25 but if you need financial -- whatever the Court thinks they

1 have a question about in any of these areas, if the Court has  
2 a question for us, and -- we can't read, Your Honor,  
3 respectfully, we can't read your mind -- we will supply that.  
4 That's all. That's all we're saying. I think that's all Ms.  
5 Querns is saying. If there's an area where you have a  
6 question, like you had some questions and we -- what are the  
7 dates of those telephone calls? We were able to supply those.  
8 If you have questions that will help you make a decision --

9 THE COURT: I think the lingo is I have been as  
10 transparent as I possibly could be each time we've been  
11 together on this issue.

12 MR. DESIMONE: All right.

13 THE COURT: And I haven't changed. The reason why  
14 I'm having a hearing today is that there are some things that  
15 have changed.

16 MR. DESIMONE: There's been many things that have  
17 changed.

18 THE COURT: That is why I, frankly, if you look at  
19 the scenario here, why the Court reached out and said is there  
20 any reason to get together again on pretrial --

21 MR. DESIMONE: No, I understand, Your Honor, and we  
22 did. In fact, you told us --

23 THE COURT: And here we are.

24 MR. DESIMONE: You told us to get with the  
25 Government. We listened to the Court, we called the

1 Government. They didn't want to necessarily -- they didn't  
2 have any interest in really talking about it, but we did. We  
3 reached out because you asked us to.

4 So what I'm saying is Ms. Querns is -- she's  
5 excellent. I am really honored to be working with her  
6 actually and whatever you need, whatever the Court --

7 THE COURT: Okay.

8 MR. DESIMONE: You have it. You know what I mean.

9 THE COURT: And I appreciate that.

10 Does the Government have any evidence to present?

11 MS. COSTELLO: No, Your Honor.

12 THE COURT: Okay. To the extent I haven't already  
13 heard it, do you have any closing arguments?

14 MR. DESIMONE: No, Judge, you heard our position.  
15 You heard us in the opening then.

16 THE COURT: I did indeed. Hey, I want to give you  
17 every opportunity.

18 MR. DESIMONE: No, we're set.

19 MS. COSTELLO: No, really, Your Honor, just if the  
20 Court focuses on the Accetturo factors, then the  
21 Government's position is that the defendant should continue to  
22 be detained and I have nothing further to say unless you have  
23 questions for us.

24 THE COURT: All right. Well, the reason I asked if  
25 there was anything in addition to the written submissions, not

1 because I want to hear any more of mud slinging or any more  
2 "ly" words. You've all probably heard me say more times than  
3 you care that if it were up to me, I would take a red pen to  
4 every adverb that isn't anything that's submitted to me these  
5 days and we would save a lot of trees because -- and sadly  
6 you're not unique in this, counsel, but I can't emphasize  
7 enough how distracting reading submissions are when so much of  
8 the time is spent squabbling or name calling or trying to  
9 appear not to be name calling, but it being name calling with  
10 opposing counsel. I appreciate it very much that all of my  
11 prior concerns that have been articulated as reasons for  
12 denying the defendant's motion for pretrial release were and,  
13 frankly, remain significant trouble spots, but there are four  
14 matters that I've been wrestling with that have developed  
15 since the last time I addressed this issue.

16 One has been just the inevitable passage of even  
17 more time. Now everybody agrees and we can all count that it  
18 will be at least four years before we get together for trial.  
19 I don't know what the future holds, but right now it looks  
20 like it will be at least four years before we have a trial.  
21 By any measure, that's a very long time not often seen in any  
22 of the case law, speaking of which you've also probably heard  
23 me say that I am quite unpersuaded that the law is  
24 commoditized. So that every case -- meaning that every case  
25 is a tailor-made case and every case is unique. Sure we pull

1 out some guidance from other cases, but it's a little bit and  
2 particularly in this situation makes it hard to find a case  
3 on, quote, all fours with this one. So while I appreciate the  
4 fact that you can use the computer to search pretrial release  
5 and a certain amount of time and it spits out cases, I don't  
6 find the cases that have been cited to the Court all that  
7 helpful in the final analysis because this is a unique case.  
8 Okay, number one is the passage of time.

9 Number two, as I point -- as my questions should  
10 show, the facilities at the Detention Center apparently are  
11 not improved to mitigate the challenges for any defendant,  
12 this one included, to prepare for trial in any meaningful way.  
13 When I say this, I am not blaming the Bureau of Prisons or the  
14 FDC. I am simply making a realistic observation that there  
15 are challenges that have not been mitigated or ameliorated for  
16 preparing for trial which actually in this particular case  
17 leads to the next development because it underscores the issue  
18 of preparation with counsel and that is the issuance of the  
19 Supreme Court's opinion in the Ruan case. I do not  
20 necessarily disagree that it is a "game changer" for this  
21 case, but it does entice a defendant to try and take a sharper  
22 look at some of the evidence and that arguably means that  
23 there needs to be a greater interaction with counsel. I'm not  
24 suggesting that there's any change in the Government's theory  
25 of the case or evidence, I am merely pointing out that it does

1 cause the Court to look again at the issue of the ease with  
2 which a defendant can work with counsel to prepare  
3 particularly a document intensive or records intensive kind of  
4 a case. So that's the third development that has changed.

5 The fourth one is the Government's, not counsel, not  
6 any particular counsel, but the overall Government's rather  
7 troublesome and unattractive May of 2022 production of yet  
8 more potential evidence that made the delay of the May 31st,  
9 2022 trial inevitable and unavoidable. I'm not focusing on  
10 any given lawyer and I urge counsel to decline doing the same,  
11 nor am I focusing on any particular trial team or records  
12 custodian for this development. I must say, you know, though  
13 in this that I don't find it particularly helpful to try and  
14 parse the Government's responsibility by a trial team or by  
15 some sort of segregation. I don't think anybody seriously  
16 thinks that the Government's role can be segmented in that  
17 way. I just think it's something you have to live with. I  
18 mean in a very small pale-in-comparison similarity, I do  
19 recall when I used to be a practicing lawyer and was working  
20 in a very large firm and I would be the only lawyer handling  
21 the case and I'd develop some conflict and I would throw  
22 myself at the mercy of the Court and say, But, Judge, I have a  
23 conflict, I'm supposed to be in a deposition, I mean it could  
24 have been even a vacation and the answer to me always was  
25 along the lines of, Well, you know, cry me a river, Mrs.

1 Pratter. You happen to come from a big firm. Somebody else  
2 can pick up the cudgels. As I said, it's a pale pathetic  
3 comparison, but the Government is, in fact, the Government and  
4 I'm sure that is no surprise.

5 I consider there still to be some gaps, but,  
6 nonetheless, I'll tell you what I am prepared to do and that  
7 is a very, very reluctant preparation to issue an order to  
8 allow pretrial release on certain very specific conditions,  
9 one of which, by the way, will not be to require the children  
10 to post their passports. It's almost a Biblical thing, I  
11 mean, to the extent that the children have to answer for the  
12 vagaries of their parents. Not with me. So but the same is  
13 not true of a spouse who arguably has some voluntary choice in  
14 her husband. The children do not have a choice in their  
15 parents so I'm not asking the kids to post their passports,  
16 but the defendant's wife will have to.

17 Let me outline what I expect that the order will say  
18 and we will all gather together again when Ms. Costello or one  
19 of her colleagues may find it opportune to say she told me so,  
20 but we'll see.

21 The conditions are going to be that there be a  
22 \$100,000 cash bond posted; that the defendant or the owners  
23 with full title, anybody who has title to the 400 Fairview  
24 Road, Penn Valley property and the Murrells Inlet, South  
25 Carolina property will post the title or whatever the full

1 equity interest is, however, I understand there's a trust that  
2 may or may not apparently at least currently own or hold title  
3 to these properties, but whoever owns these properties, those  
4 interests will be tendered and posted. When I say posted, by  
5 the way, it's going to be once the Court has received a  
6 satisfactory documentary evidence of compliance of these  
7 conditions and then the defendant will be released from the  
8 FDC. Continuing the list then, that is, the posting of the  
9 full equity interest in the 6744 Emlen Street, Unit 7 property  
10 and the Hawthorne Avenue, Havertown property, both of which  
11 are real properties apparently owned by Hossein and Hanieh  
12 Razzaghi who shall, by the way, also be required to present a  
13 written agreement under oath to the posting of these  
14 properties as provided in this order. The same with respect  
15 to the title to the Militia Drive, Wayne property and the 6736  
16 Emlen Street, Unit 3 property, again with the same statement  
17 under oath of agreement to the posting of the title of those  
18 properties. I'm also going to order that upon the payment of  
19 the bond and the compliance with all of these provisions that  
20 the defendant will be released to his wife to reside at the  
21 400 Fairview Road, Penn Valley, and in saying that, I want to  
22 accentuate the fact that she is the boss. She is in charge.  
23 He is not. And she is an arm of the Court in keeping track of  
24 the defendant. The defendant must not leave the Penn Valley  
25 property without prior authorization from Pretrial Services or

1 this Court. He must surrender all passports and visas to  
2 Pretrial Services and must not apply for any passport for  
3 travel documents nor seek any sanctuary or protection of or  
4 from or in any governmental political entity or subdivision.  
5 The defendant's wife must surrender her passport and all these  
6 will be given to Pretrial Services and must not apply for any  
7 passport or other travel documents. The defendant will be  
8 subject to location monitoring by global positioning system  
9 devices and must not leave the property, the Penn Valley  
10 property, as I said, without Pretrial Services or the Court's  
11 prior authorization. The cost for the GPS monitoring device  
12 will be borne by the defendant.

13 The defendant must avoid all direct or indirect  
14 contact, this means including through counsel, with anyone  
15 other than his family, medical doctors and counselors and  
16 attorneys including he is to have no contact with the  
17 codefendants, with witnesses for any of the parties in this  
18 case, any victims of the alleged crimes and any and all people  
19 involved in the conduct which is the subject of this case.  
20 This will include any more gambits trying to reach out either  
21 surreptitiously or directly with any witness of the Government  
22 including the expert witnesses.

23 The defendant must report to Pretrial Services on a  
24 regular basis with a schedule to be set by Pretrial Services.  
25 Of course, the defendant must refrain from possessing or

1 handling any firearm or other dangerous weapons and there are  
2 no firearms or dangerous weapons that will be permitted to be  
3 anywhere on the premises of the 400 Fairview Road, Penn Valley  
4 property. I think I understood that there had been previously  
5 guns there, but they've been tendered, but let's just make  
6 sure nobody has brought back any guns or there isn't any one  
7 there.

8 The defendant must seek mental health treatment  
9 including counseling for anger management at his own cost.

10 Violation of any of these conditions once the  
11 defendant is released if I've received evidence of compliance  
12 of these -- but violation of any of these conditions once the  
13 defendant is released from the Detention Center will result in  
14 revocation of pretrial release and a return of the defendant  
15 to pretrial detention.

16 Questions, comments?

17 MR. DESIMONE: No, Your Honor.

18 MS. QUERNS: No, Your Honor.

19 THE COURT: Ms. Costello.

20 MS. COSTELLO: No.

21 THE COURT: How about from Pretrial Services?

22 THE PRETRIAL SERVICES OFFICER: No questions.

23 THE COURT: It's a fairly lengthy order so I need to  
24 get it typed up.

25 MS. COSTELLO: If I may, Your Honor, there still is

1 an outstanding legal issue with respect to the 400 Fairview  
2 Road, that that is subject to forfeiture. Typically, my  
3 understanding of the case law is that that cannot usually be  
4 pledged as bail. I think that was the subject of previous  
5 briefing.

6 THE COURT: I'm not sure I followed that prior  
7 issue.

8 MS. COSTELLO: I'm not a forfeiture expert, so I  
9 agree with you.

10 THE COURT: Where is Mr. Minni when you need him?

11 MS. COSTELLO: I don't know. I did not see him  
12 today. I don't know. So that's the only thing. Whatever.  
13 We're not going to make an issue about it.

14 THE COURT: Well, the pledging or the posting is  
15 whoever has title to these properties shall provide whatever  
16 it is they can for purposes of giving up their, you know, the  
17 owner, the titled owner's equitable and legal title pending  
18 the defendant's appearance for trial. So if it turns out they  
19 have no power to lose the property if the defendant were to  
20 abscond, you know, so be it. That's why there's a fairly long  
21 laundry list here.

22 MS. COSTELLO: Thank you, Your Honor.

23 MR. DESIMONE: Your Honor, one thing the defendant  
24 did ask me and I know what the answer is going to be, can he  
25 speak to our expert and, of course, the answer is he can speak

1 to his own expert.

2 THE COURT: Yes.

3 MR. DESIMONE: But I wanted to make sure, he wanted  
4 to make sure, so that's it.

5 THE COURT: Well, presumably, that's with counsel  
6 present.

7 MR. DESIMONE: Yes.

8 THE COURT: Because, otherwise, your expert's going  
9 to have to be given all the admonitions of not being an  
10 indirect conduit for anything that would be inappropriate.

11 MR. DESIMONE: He's up in Massachusetts Medical in  
12 Harvard. He's not even going to --

13 THE COURT: Well, wherever, I don't care where he  
14 is.

15 MR. DESIMONE: He's not -- the expert's not calling  
16 anybody. He means to speak to him on the telephone and go  
17 over the facts of the case.

18 THE COURT: Then I recommend very strongly, Mr.  
19 DeSimone, that you or one of your colleagues go through this  
20 list so that the expert doesn't become -- so there's no  
21 risk --

22 MR. DESIMONE: Judge --

23 THE COURT: -- that the expert become a vehicle for  
24 anything that might be misunderstood.

25 MR. DESIMONE: Judge, we have enough trouble getting

1 the expert on the phone ourselves.

2 THE COURT: I understand.

3 MR. DESIMONE: Whether or not he's going to talk to  
4 somebody else, I will -- we'll tell him, okay.

5 THE COURT: I'm not going to make him sign anything.  
6 I'm leaving a little bit --

7 MR. DESIMONE: I'm not worried about the expert,  
8 Judge.

9 THE COURT: Well, yes, neither am I. I think it's  
10 pretty clear. This is being driven by the passage of time.

11 MR. DESIMONE: I understand, Your Honor. I  
12 understand.

13 THE COURT: And the other -- I mean, just so you  
14 know and your client knows, this is governed by elements that  
15 he has nothing to do with.

16 MR. DESIMONE: Judge, we wouldn't even be here now  
17 if we didn't have the situation that occurred, obviously. We  
18 weren't going to file another bail petition, but --

19 THE COURT: You know, I have nothing more to say.

20 MR. DESIMONE: Neither do I, Judge. It's good to  
21 see you.

22 THE COURT: Okay, anything else from anybody?

23 MR. DESIMONE: No, Your Honor.

24 MS. COSTELLO: Not from the Government, Your Honor.

25 Thank you, Your Honor.

1                   THE COURT: I will be here, Mr. DeSimone or Ms.  
2 Querns, so when you and the Clerk's Office get me whatever,  
3 you know, this list, you'll get the inventory as soon as we're  
4 able to type it up.

5                   MR. DESIMONE: We'll get it done for Your Honor.

6                   THE COURT: Whatever you give to me, send copies to  
7 Government's counsel.

8                   MR. DESIMONE: Well, of course.

9                   MS. COSTELLO: Thank you, Your Honor.

10                  MR. DESIMONE: Of course, we will. We wouldn't --  
11 the last thing we would do is do an ex-parte communication  
12 like that. Oh, my gosh.

13                  THE COURT: Okay. Next time we're together, I will  
14 not resist showing you how I circled in your respective papers  
15 all of the adverbs and the bric-a-brac.

16                  MR. DESIMONE: Judge, I had nothing to do with the  
17 papers so you can talk to either of them.

18                  MS. QUERNS: Understood.

19                  MR. DESIMONE: I had nothing to do with the papers.

20                  THE COURT: Well, verbally. The transcript, I can  
21 circle all "ly" words as well.

22                  MR. DESIMONE: Both counsel got a B or C. It has  
23 nothing to do with me.

24                  Have a nice, day.

25                  MR. PARISI: Good afternoon, Your Honor.

1 MS. COSTELLO: Good afternoon, Your Honor.

2 THE COURT: Take care, everybody.

3 (Court adjourned)

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I N D E X

2

	DEFENDANT'S EVIDENCE	DIRECT	CROSS	REDIRECT	RECROSS
4	Niusha Houshmand	20	24		
5	Mehdi Nikparvar-Fard	30	38	45	

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C E R T I F I C A T E

9

I certify that the foregoing is a correct transcript from the record of the proceedings in the above-entitled matter.

12

*Kathleen Feldman*

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Kathleen Feldman, CSR, CRR, RPR, CM  
Official Court Reporter

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16 Date: May 6, 2024

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